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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------------|------------------|
| 10/734,788 | 12/12/2003 | Tommy Rodrigues | FDN-2824 (17017) | 3477 |
| 7590 02/08/2007 Attn: William J. Davis, Esq. GAF MATERIALS CORPORATION Legal Dept., Building No. 10 1361 Alps Road Wayne, NJ 07470 | | | EXAMINER RUDDOCK, ULA CORINNA | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1771 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 02/08/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/734,788

Applicant(s)

RODRIGUES ET AL.

Examiner

Ula C. Ruddock

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8,10,11,13 and 15-25 is/are pending in the application.
- 4a) Of the above claim(s) 15-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,10,11,13,22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed November 13, 2006. In view of Applicant's response, the rejection in view of Miller et al. (US 2002/0110679) has been withdrawn. However, after an updated search, additional prior art has been found which renders the invention as currently claimed unpatentable for reasons herein below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7, 8, 10, 11, 13, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tajima et al. (US 4,636,414) in view of Kiik et al. (US 6,990,779). Tajima et al. disclose a laminated roofing membrane comprising a fibrous sheet, first and second bituminous layers laminated on both surfaces of the fibrous sheet, a synthetic film laminated on the opposite surface of the first bituminous layer, and a mineral aggregate layer (i.e. granules) deposited on the opposite surface of the second bituminous layer (col 2, ln 62-68 to col 3, ln 1-3; Figures 1 and 4). The fibrous sheets usable in the present invention include nonwoven fabrics made of glass fiber (col 3, ln 50-55). The synthetic films can be polyvinyl chloride, polyester, or polyethylene films (col 4, ln 1-5). Tajima et al. disclose the claimed invention except for the teaching that a rubber polymer modified asphalt layer is between the nonwoven glass fabric and the organic film.

Kiik et al. disclose a roofing system and roofing shingles comprising a fiberglass mat substrate on which an asphalt coating is applied and an outer layer of mineral granules is applied to the asphalt coating (col 1, ln 43-55). The substrate is covered on the other side with preformed plastic films which are attached to the coated substrate with an adhesive (col 5, ln 13-18). The adhesive can be an asphaltic adhesive, such as an asphaltic adhesive similar to standard laminated adhesives (col 5, ln 49-55). It would have been obvious to one having ordinary skill in the art to have used Kiik's asphaltic adhesive as an adhesive layer between Tajima's nonwoven glass fabric and synthetic sheet, motivated by the desire to create a roofing membrane that increased lamination strength and increased durability.

Regarding claim 11, it should be noted that because the Tajima and Kiik references disclose the same materials as Applicant, the thermoplastic film will have a melting point higher than the melting temperatures of the asphalt coating said substrate or the thermosetting film will have a decomposition temperature higher than the melting temperature of the asphalt coating said substrate.

Regarding claim 8, Tajima et al. and Kiik et al. disclose the claimed invention except for the teaching that the polyester film is specifically a polyethylene terephthalate film. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used polyethylene terephthalate as the polyester film in the Tajima et al. and Kiik et al. roofing material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. In the present invention, one would have used polyethylene terephthalate,

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motivated by the desire to create a roofing material that high strength and increased abrasion resistance.

Response to Arguments

4. Applicant's arguments with respect to claims 1-5, 7, 8, 10, 11, 13, and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UCR

Ula Ruddock
Ula Ruddock
Primary Examiner
TECHNICAL